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In re Application of	:	
HEEKS et al.	:	
Application No.: 09/868,262	:	DECISION ON REQUEST
PCT No.: PCT/GB99/04144	:	UNDER 37 CFR 1.497(d)
Int. Filing Date: 14 December 1999	:	
Priority Date: 17 December 1998	:	
Attorney Docket No.: 083513.7034	:	
For: ORGANIC LIGHT-EMITTING DEVICES	:	

This decision is in response to "Response to Decision on Request under 37 CFR 1.497(d) Dated February 19, 2002" filed 19 April 2002.

BACKGROUND

On 14 December 1999, applicants filed the above-captioned international application, which claimed a priority date of 17 December 1998 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 22 June 2000. The international application named Stephen Karl Heeks, Jeremy Henley Burroughes, and Julian Charles Carter. A Demand for international preliminary examination was filed prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 17 June 2001.

On 15 June 2001, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a basic national fee of \$860.

On 05 September 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a) and (b).

On 03 January 2002, applicants filed "Submission of Oath or Declaration under 37 CFR 1.497" which included: a declaration executed by Stephen Karl Heeks, Jeremy Henley Burroughes, Julian Charles Carter and Peter Devine; \$130 surcharge under 37 CFR 1.492(e); two-month extension of time fee (\$400); and an assignment. In a decision dated 19 February 2002, applicants' request was dismissed without prejudice.

On 19 April 2002, applicants filed the present request which included: a consent of assignee; executed assignment and cover sheet; and a copy of the declaration filed 03 January 2002.

DISCUSSION

In the instant case, the international application named Stephen Karl Heeks, Jeremy Henley Burroughes, and Julian Charles Carter as applicants/inventors. Applicants request to add Peter Devine as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires:

- (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;
- (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a);
- (3) the fee set forth in 37 CFR 1.17(i); and
- (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Items (1), (2) and (3) have been satisfied.

In regard to item (4) above, the written consent of the assignee is not acceptable. The consent of assignee is executed by the "C.T.O." and the petition does not aver that "C.T.O." has the authority to provide consent for the assignee. Therefore, applicants are requested to file an additional written consent of the assignee that provides the name and title of the individual with authority to act on behalf of the assignee. Section 201.03 of the M.P.E.P states in part that:

"The title of the party signing on behalf of a corporate assignee and the authority to do so should be set forth in the written consent. Consent of a corporate assignee may be signed by an officer (e.g., president, vice president, secretary, or treasurer) of the corporation or may include a statement in oath or declaration form that the person signing the consent has authority to do so. Further the assignee must establish its ownership of the application in accordance with 37 CFR 3.73."

For the reasons discussed above, it is inappropriate, at this time, to grant applicants request for correction of inventorship.

CONCLUSION

For the reasons discussed above, applicants' request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

A proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. A proper response must include a written consent of assignee in compliance with 37 CFR 3.73(b). Failure to file a proper response in a timely manner will result in ABANDONMENT of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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